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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,207	01/05/2001	Tao Chen	010098	5300
23696 7590 09/19/2007 QUALCOMM INCORPORATED 5775 MOREHOUSE DR. SAN DIEGO, CA 92121			EXAMINER NGUYEN, TU X	
			ART UNIT	PAPER NUMBER
			2618	
			NOTIFICATION DATE	DELIVERY MODE
			09/19/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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kscanla@qualcomm.com  
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**Office Action Summary**

Application No.

09/755,207

Applicant(s)

CHEN ET AL.

Examiner

Tu X Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 8/17/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3/21/07 6) ☐ Other:

## DETAILED ACTION

### *Response to Amendment*

Applicant's arguments, filed date 8/17/07 and 8/23/06, with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6 and 8-9, are rejected under 35 U.S.C. 102(e) as being provisional anticipated by Bonta et al. (US Patent 6,337,983).

Regarding claims 1 and 6, Bonta et al. discloses a method for call recovery wherein a mobile terminal's transmit power is not controlled by a base station during call recovery, comprising:

transmitting a pilot strength measurement message from a mobile terminal at a first transmit power level determined by the mobile terminal (col.11 lines 17-18, fig.4 steps 622, 627);

waiting a predetermined time period during which call recovery is not completed (see fig.3-4, steps 607, 611, 620, 629-31, col.11 lines 23-24); and

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transmitting the pilot strength measurement message at a second transmit power level determined by the mobile terminal, wherein the second transmit power level is greater than the first transmit power level (see fig.4, step 632, col.13 lines 44-46).

Regarding claim 4, Bonta et al. disclose a method comprising:

Initiating a call recovery from a mobile terminal wherein the mobile terminal's transmit power is not controlled by a base station during call recovery (see fig.3, steps 601-607); and

Transmitting a pilot strength measurement message from the mobile terminal at a first transmit power level determined by the mobile terminal, which first transmit power level is less than a maximum transmit power level (see fig.4, steps 622, 627); and

Incrementing a transmit power level from a mobile terminal prior to receiving a hand-off direction message (see fig.4, step 632, col.11 lines 50-59).

Regarding claim 2, Bonta et al. discloses the second transmit power level is a maximum transmit power level (see col.7 lines 35-36).

Regarding claim 3, Bonta et al. disclose a computer program stored on a computer readable medium (see col.1, a computer program is inherent in a computer readable medium such as mobile device and base station).

Regarding claim 4, the modified Chheda et al. discloses everything as claim 1 above. More specifically, the modified Chheda et al. disclose incrementing a transmit power level prior to receiving a hand-off direction message (see Chheda et al. col.11 lines 3-22).

Regarding claim 5, Bonta et al. disclose transmitting a pilot strength measurement message at each transmit power level (see col.11 lines 12-40).

Regarding claim 6, Bonta et al. disclose the pilot strength measurement messages are transmitted at predetermined time intervals (see col.11 lines 36-40).

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Regarding claim 8, Bonta et al. disclose every thing as claim 1, and further Bonta inherently disclose an antenna and a processor couple to the antenna of a mobile terminal as a computer readable medium in order to carry out the tasks described in claim 1.

Regarding claim 9, Bonta et al. disclose maintain the transmit power below a maximum power level (see 627, 628, fig.4).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bonta et al. in view of Dalal (US Paten 6,633,554).

Regarding claim 7, Bonta et al. fail to disclose the pilot strength measurement message includes a preamble message.

Dalal disclose the pilot strength measurement message includes a preamble message (see col.7-20). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Bonta et al. with the above teaching of Dalal in order to provide a preamble message to be transmitted over traffic channel).

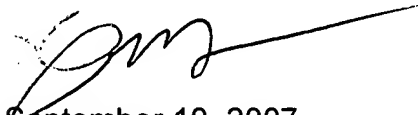
### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed Tu Nguyen whose telephone number is 571-272-7883.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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September 10, 2007